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WHEREAS, Congress Avenue Properties, Ltd., is the owner (the “Owner”) of a 49.81± acre parcel of real property, the legal description of which is attached hereto and incorporated herein as **Exhibit “A”** (the “subject property” or the “Site”); and

WHEREAS, the subject property is generally located at the southeast corner of Congress Avenue and Watertower Road in the Town of Lake Park, Florida (the “Town”); and

WHEREAS, on or about March 5, 2003 the Town Commission for the Town of Lake Park, Florida (“Town”) approved a conceptual plan for the subject property for a 511,00 square foot office/warehouse complex (“Project”) pursuant to Resolution No. 06-03-03; and

WHEREAS, pursuant to Condition No. 7 of Resolution No. 06-03-03, the conceptual plan approval required that “[d]evelopment shall commence prior to the expiration of the traffic concurrency unless otherwise extended or revoked by the Town Commission. Any unused trips

34 remaining beyond the project's build out shall be released from the Palm Beach County
35 Concurrency inventory by the applicant"; and

36 **WHEREAS**, the traffic concurrency for the Project is scheduled to expire on December
37 31, 2008 and the Owner is concerned that the development of the Project will not be commenced
38 prior to the expiration of the traffic concurrency as required by Condition No. 7 of Resolution
39 No. 06-0303; and

40 **WHEREAS**, Gentile, Holloway, O'Mahoney & Associates, Inc., as agent for the Owner
41 (the "Applicant") has submitted an application (the "Application") requesting an extension of
42 time of the expiration date for the development of the subject property as an office/warehouse
43 complex; and

44 **WHEREAS**, Town Code Section 67-42, expressly limits the grant of any extension of
45 time for a development order to no longer than eighteen (18) months; and

46 **WHEREAS**, pursuant to Town Code Section 67-42, the maximum amount of time for
47 which the Build-Out date for the Project may be extended is 36 months; and

48 **WHEREAS**, the Town Commission has conducted a public quasi-judicial hearing to
49 consider the Application; and

50 **WHEREAS**, at this hearing the Town Commission considered the evidence presented by
51 the Town Staff, the Applicant, the Owner, and other interested parties and members of the public
52 as to the Application's consistency with the Town's Comprehensive Plan; and

53 **WHEREAS**, at this hearing, the Town Commission considered the evidence presented
54 by the Town Staff, the Applicant, the Owner and other interested parties and members of the
55 public regarding whether the Application meets the Town's Land Development Regulations,

including specifically Town Code Section 67-42 of the Town Code pertaining to extensions of time in development order approvals; and

WHEREAS, the Town Commission has determined that the conditions incorporated herein, are necessary in order for the requested extension of time to be consistent with the Town's Comprehensive Plan, and to comply with the Town's Land Development Regulations; and

WHEREAS, the conditions as set forth below shall apply to the Owner, and the Owner's successors and/or assigns.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK:

Section 1. The whereas clauses are hereby incorporated as true and correct as the findings of fact and conclusions of law of the Town Commission.

Section 2. Pursuant to the limitations and requirements pertaining to the extension to time for development order approvals as contained in Town Code Section 67-42, the Town Commission hereby extends the expiration date for the Project for an effective period of up to 36 months from December 31, 2008 (the expiration date for traffic concurrency as established by Condition No. 7 of Resolution No. 06-03-03), until **December 30, 2011**, or until completion of the project whichever occurs first. Such extension shall be subject to the conditions described below.

1) Condition No. 7 of Resolution No. 06-03-03 is hereby amended to read as follows:

~~"Development shall commence prior to the expiration of the traffic concurrency unless otherwise extended or revoked by the Town Commission. Any unused trips remaining beyond the project's build out shall be released from the Palm Beach County Concurrency inventory by the applicant."~~ The Owner, or his authorized agent, or the Owner's successors and assigns, shall commence the bona fide and continuous development of the Project no later than June 30, 2010. The development of the Project shall be completed within 18 months from the effective date of initiation of development

83 as defined in Town Code Section 67-42, failing which the conceptual plan approval for
84 this Project granted pursuant to Resolution No. 06-03-03 shall be rendered null and void.
85 The provisions of Town Code Section 67-42, as amended from time to time, are hereby
86 incorporated herein by reference as if fully set forth herein.
87

88 2) A technically complete and sufficient site development plan for the Project shall be
89 submitted by the Owner to the Town's Community Development Department for review
90 and processing and the development plan shall be approved by the Town Commission,
91 prior to the issuance of any permits.

92 3) The Owner hereby agrees to comply with the minimum requirements of the Town of
93 Lake Park Code of Ordinances which exist at the time this Application was submitted to
94 the Town as provided in Town Code Section 67-42(e)(5).

95 4) All other terms and conditions of Resolution No. 06-03-03, not amended hereby remain
96 in full force and effect.

97 5) These conditions of approval shall run with the land and shall be binding upon the
98 Owner, and its successors and/or assigns.

99 6) Cost Recovery. All fees and costs, including professional fees and legal fees at the rate
100 of \$195.00 per hour, incurred by the Town in reviewing this Application and billed to the
101 Owner shall be paid to the Town within 10 days of receipt of an invoice from the Town,
102 and in no case later than 15 days from the date of the issuance of the invoice by the
103 Town. The Owner's failure to reimburse the Town within the 10 day time period may
104 result in the automatic revocation of the extension of time granted herein, any and all land
105 development approvals by the Town. The Town may avail itself of any and all legal and
106 equitable remedies, and other appropriate measures that the Town deems necessary and
107 appropriate to secure payment.

108 **Section 3. Severability.** If any section, paragraph, sentence, clause, phrase or word
109 of this Resolution is for any reason held by a Court to be unconstitutional, inoperative or void,
110 such holding shall not affect the remainder of this Resolution.

111 **Section 4. Repeal of Laws in Conflict.** All Resolutions or parts of Resolutions in
112 conflict herewith are hereby repealed.

113 **Section 5. Effective date.** This Resolution shall take effect upon adoption.

ATTACHMENT A

PROPERTY DESCRIPTION: PARCEL 34.03D & 34.03E (O.R.B. 12416, PAGE 162)

A PARCEL OF LAND LOCATED IN THE SOUTHEAST ONE-QUARTER (SE ¼) OF SECTION 19, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:


BOUNDED ON THE NORTH BY THE SOUTH RIGHT OF WAY LINE FOR WATERTOWER ROAD AS RECORDED IN OFFICIAL RECORDS BOOK 10739, PAGE 6, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; BOUNDED ON THE EAST BY THE EAST LINE OF THE SOUTHEAST ON-QUARTER (SE ¼) OF SAID SECTION 19; BOUNDED ON THE SOUTH AND WEST BY THE EAST RIGHT OF WAY LINE FOR CONGRESS AVENUE AND THE NORTH RIGHT OF WAY LINE FOR SILVER BEACH ROAD AS RECORDED IN OFFICIAL BOOK 10739, PAGE6, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

The foregoing Resolution was offered by Vice-Mayor Daly, who moved its adoption. The motion was seconded by Commissioner Balius, and upon being put to a roll call vote, the vote was as follows:

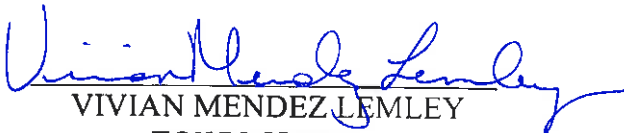
	AYE	NAY
MAYOR DESCA DUBOIS	<u>X</u>	_____
VICE-MAYOR ED DALY	<u>X</u>	_____
COMMISSIONER CHUCK BALIUS	<u>X</u>	_____
COMMISSIONER JEFF CAREY	<u>X</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>X</u>	_____

The Town Commission thereupon declared the foregoing Resolution NO. 38-07-08 duly passed and adopted this 16 day of July, 2008.

TOWN OF LAKE PARK, FLORIDA

BY: 
DESCA DUBOIS
MAYOR

ATTEST:


VIVIAN MENDEZ LEMLEY

TOWN CLERK

TOWN OF LAKE PARK
(TOWN SEAL)
SEAL
FLORIDA

Approved as to form and legal
sufficiency:

BY: 
THOMAS J. BAIRD
TOWN ATTORNEY